

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

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In re:	:
	: Chapter 11
	:
ETOYS, INC., et al. <sup>1</sup> ,	: Case Nos. 01-0706 (RB)
	: Through 01-0709 (RB)
Debtors.	:
	:
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ROBERT K. ALBER, <i>Pro Se</i> ,	:
	:
Appellant,	: Civil Action No. 05-830 (KAJ)
	:
v.	:
	:
TRAUB, BONACQUIST & FOX LLP,	:
BARRY GOLD, MORRIS NICHOLS	:
ARSHT & TUNNEL LLP, AND POST-	:
EFFECTIVE DATE COMMITTEE OF	:
EBC I, INC.,	:
	:
Appellees.	:
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**ORDER GRANTING APPELLEE'S MOTION TO  
STRIKE ITEMS IMPROPERLY DESIGNATED BY  
ROBERT K. ALBER, *PRO SE*, TO BE INCLUDED IN THE RECORD ON  
APPEAL OF THE BANKRUPTCY COURT'S OCTOBER 4, 2005 ORDER**

THE COURT having considered Appellee Traub, Bonacquist & Fox LLP's Motion ("Motion") to Strike Items Improperly Designated By Robert K. Alber, *Pro Se* ("Appellant") To Be Included In The Record On Appeal; and upon consideration of the pleadings filed in this matter, the evidence presented at the Hearing, and the arguments of counsel; and after due deliberation thereon; and good and sufficient cause appearing therefore, IT IS ORDERED:

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<sup>1</sup> The Debtors are the following entities: EBC I, Inc. f/k/a eToys, Inc. ("eToys"), EBC Distribution, LLC, f/k/a eToys Distribution LLC, PMJ Corporation and eKids, Inc.

1. The Motion is GRANTED.
2. The following items designated by Appellant shall not be included in the record on appeal of the Bankruptcy Court's October 4, 2005 Order (as defined in the Motion):

<b>Designated No.</b>	<b>Description</b>
4	Affidavit of Lee Castillo (2nd) with testimony that the Creditors Committee was deceived in the hiring of Barry Gold.
5	Rulings by Her Honor Walrath describing me, Alber, as being a Party of Interest in this case.
6	Rulings by Her Honor Walrath allowing me, Alber, to represent myself in these matters, with the provision that others may file Joinders to my Pleadings.
7	Rulings by Her Honor Walrath striking the Releases, Injunctions and Indemnification Language protecting any person/entity in this case.
8	Communications between members of the U.S. Trustee Program and me, Alber.
9	Relevant Rules requiring U.S. Trustee Program members to turn over reports of crimes to the Department of Justice for investigation, which were intentionally contravened by Mark Kenney and others within that program. UST Guidelines of 5-1.2.1 "Duty to Notify & Refer."
10	5-1.2.2 referencing Judge Walrath's Order of 18 USC 3057 (a) Duty to Notify & Refer.
11	Communications between SEC Investigators and me, Alber.
12	Communications between voting members of the eToys PEDC and me, Alber.
13	Communications between Gregory W. Werkheiser, Esq., of MNAT, and me, Alber.
14	All filings in the eToys Bankruptcy Case by me, Alber, detailing various crimes against the eToys Estate and me, Alber, as a Party of Interest.
15	All filings and submissions in the eToys Bankruptcy Case and elsewhere by eToys insider Steven "Laser" Haas, eToys liquidator, detailing various crimes against the eToys Estate by those within the eToys Estate, based on personal knowledge, information, documentation and other submissions.

Designated No.	Description
16	All filings in the eToys Bankruptcy Case detailing various crimes against the eToys Estate and me, Alber, as a Party of Interest, by MNAT (debtors counsel), Barry Gold (President/CEO, (Plan Administrator) and TBF (creditors committee PEDC counsel).
17	Relevant Court filings in the Stage Stores Bankruptcy Case showing the non-disclosed relationships between Gold and others directly related to our case.
19	Relevant Court filings in the Jumbo Sports Bankruptcy Case showing the non-disclosed relationships between Gold and others directly related to our case.
20	Relevant Court filings in the Bonus Stores Bankruptcy Case showing the non-disclosed relationships between Gold and others directly related to our case.
21	Relevant Court filings in the Drug Emporium Bankruptcy Case showing the nondisclosed relationships between Gold and others directly related to our case.
22	Relevant Court filings in the FAO Schwartz Bankruptcy Case.
23	Relevant Court filings in the Homelife Bankruptcy Case.
24	Relevant Court Flings in the Adelphia Bankruptcy Case.
25	Relevant Court filings in the Montgomery Wards Bankruptcy Case.
26	Relevant Court filings in the Brueners Bankruptcy Case.
27	Relevant Court filings in the L. Luria & Sons Bankruptcy Case.
28	Relevant Court filings in the Toys International/Playco Bankruptcy Case.
29	Relevant Court Flings in the Phar-Mor Bankruptcy Case.
30	Relevant Court Flings in the Zany Brainy Bankruptcy Case.
31	Relevant Court flings in the Gadzooks Bankruptcy Case.
32	Relevant Court filings in the KB Toys Bankruptcy Case.
33	Relevant Court filings in the eToys Bankruptcy Case (voluminous).
34	Relevant SEC flings for Clear Channel Communications showing MNAT, debtors counsel, having an actual Conflict of Interest with Defendants in eToys LPQ Litigation filed in the New York State Supreme Court, and other issues.
35	Other, relevant, SEC filings showing MNAT, debtors counsel, having actual and potential Conflicts of Interest with Defendants in eToys IPO Litigation filed in the New York State Supreme Court, and other issues.

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36	Relevant SEC filings for Clear Channel Communications showing Shearman & Sterling, counsel for TBF in these proceedings, having an actual Conflict of Interest with Defendants in eToys IPO Litigation filed in the New York State Supreme Court, and other issues.
37	Other, relevant, SEC filings.
38	Fee Applications in the eToys case for TBF, MNAT, Crossroads, Richard Cartoon and Irell & Manella.
42	Transcript of the October 16 <sup>th</sup> , 2002, Court Hearing in the eToys Bankruptcy Case.
43	Transcript of the November 1 <sup>st</sup> , 2002, Court Hearing in the eToys Bankruptcy Case.
44	Transcript of the August 5 <sup>th</sup> , 2002, Court Hearing in the eToys Bankruptcy Case (on order, and which we will provide to this Court upon my receiving it).
46	Excerpts from various fee applications and other documentation in this case detailing how Barry Gold achieved a pay increase by applying directly to TBF members, and not through regular, accepted channels of communication and approval for such a pay increase to normally occur.
50	Excerpts from eToys Disclosure Statement and Liquidating Plan of Reorganization, showing language both prior to and after language Ordered by Judge Walrath, at my, Alber, insistence, being added to the Plan and Disclosure Statement.
51	Excerpts from eToys Supplement to the Liquidating Plan of Reorganization, showing 5.2 - Removal of Plan Administrator by Party(ies) of Interest
52	eToys Docket 1312, Disclosure of Barry F. Gold in his application to become eToys Plan Administrator, showing conflicting testimony as to what position he, Gold, was hired to fulfill within eToys, his further attempts to obfuscate Justice in not disclosing his status as employee and partner of Paul Traub, TBF, and other matters inconsistent with other testimony by Gold.
53	2001-01-16 Initial, pre-bankruptcy filing of eToys STANDSTILL AGREEMENT with creditors and TBF retention.
54	2000-12-04 Details of a special, confidential meeting between eToys Executives, Officers and Directors where impending Bankruptcy, Retention of Key Employees, and severance agreements between then-current eToys Executives was discussed and contracts entered into by Steve Schoch, Toby Tank and John Hnanicek.

Designated No.	Description
57	Details gleaned from various SEC documents, eToys filings and other documentation describing eToys \$40 million Revolving Credit Facility with Foothill Capital, a wholly owned subsidiary of Welts Fargo, paid off by eToys in a Preferential Payment which was never contested or even mentioned by Gold, MNAT, or any other entity in charge of running the day-to-day operations of the eToys Estate.
58	eToys Bankruptcy Filings by MNAT (and others) detailing IPO Litigation currently in the New York State Supreme Court system, whose authority tin behalf the Debtors. eToys, was transferred to TBF/eToys Creditors Committee, and now the eToys PEDC, while intentionally not Disclosing their relationships with defendants in the aforementioned IPO Litigation, causing perhaps irreparable harm to the eToys Estate and me, Alber, as an eToys party of interest and equity security holder.
59	Various Federal Court Rules, Codes and findings concerning Disclosure requirements in Federal Bankruptcy Proceedings.
60	Rule 2014 on Professional Persons
61	Rule 2016 on Professional Persons
62	Code 327 (a) Employment of Professional Persons
63	Code 101(14) Definition(s)
64	Code 105 (a) Sua Sponte
65	Code 503(b) Substantial Contribution
66	Rule 7024 Intervention
67	Other Rules and Codes relevant to Bankruptcy Crimes which have occurred in the eToys Bankruptcy Case.
68	Excerpts from various eToys filings, depositions, testimony and transcripts proving that Barry Gold does not in fact hold Her Honor Walrath, as presiding Judge in these bankruptcy proceedings, as the ultimate authority, but rather his employer, TBF, in matters causing actual harm to the eToys Estate arid me, Alber, as a party of interest and equity security holder.
69	A copy of the registered equity security holders list in this case given to me, Alber, at the direction of the Her Honor Walrath on October 16 <sup>th</sup> , 2002, by Gregory Werkheiser, MNAT, showing Goldman Sachs as a party of interest in the eToys Bankruptcy Case.
70	Affidavits of the Firm Traub Bonacquist & Fox affirming absence of conflicts and acknowledging fulfillment of required Disclosure requirements.
71	Declaration of Barry Gold as Plan Administrator signed under "penalty of perjury".
72	Affidavit(s) of Morris Nichols Arsh & Tunnel ("MNAT").
73	Hearing on Goldman Sachs where MNAT failed to Appear
74	Court Order fining MNAT for Failure to Appear

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75	Excerpt from UST Motion of February 15, 2005, which specifically references where he warned all parties that replacements of any key employee of Debtor had to be "arms length".
76	Excerpt(s) from Transcript showing I, Alber, questioning Barry Gold about a direct connection with TBF. Showing premeditated intent by Fred Rosner, TBF, MNAT, Barry Gold, Kenney and others to deceive.
77	Excerpt from Transcript of Dec. 22, 2005 hearing of US Trustee statement by Frank Perch.
79	Excerpt from Response of Barry Gold on January 25, 2005 with a first time view of the Barry Gold hiring letter, drafted by both Counsels and signed given Barry Gold "willful" circumvention of the Rule(s) and Code at his own volition in an endeavor to avoid perjury and other Fraud statute violations.
85	Appeal Court rulings and standards on the "unambiguous" standard! (emphasis added)
86	UST Handbook and Guidelines on Duties and Fraud as part of the US DOJ.
87	Appeal Court rulings and standards on the "unambiguous" standard! (emphasis added)
88	UST Handbook and Guidelines on Duties and Fraud as part of the US DOJ.
89	28 USC 586(A)(3)(F)
90	Janet Reno Reform Act of 1994
91	18 USC 155 Fee Agreement statutes against Scheme to Fix Fee's
92	In re: Bonus Sales Document of Asset Disposition Advisors
93	In re: Bonus Sales US Trustee note by Mark Kenney
94	In re: Bonus Sales Transcript of discussion by Mark Kenneth "ex parte" of conflicts with a counsel of the Estate and Creditors
95	In re: Homelife docket items by Paul Traub and Barry Gold in spring of 2001
97	Barry Gold's Testimony of connections to Jack Bush of Idea Forest, Bain, Stage Store's, Jumbo Sports.
98	Barry Gold's Testimony of connections to another director of Stage Store's, and Bombay Company, who was previous employer of Michael Glazer of KB Toys when eToys Assets were purchased by KB Toys
99	SEC report of Stage Stores which shows Jack Bush and Michael Glazer (CEO of KB Toys).
100	KB Toys record on pre petition payment of Michael Glazer and others far more than \$100 million
101	KB Toys record on TBF asking to be the one to prosecute the Michael Glazer pre petition payments
102	eToys Docket Records of purchases by KB Toys of eToys assets

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103	Barry Gold Testimony of working with Foothill owner Wells Fargo
104	Paul Traub Testimony of working with Wells Fargo, Fleet and others
105	18 USC 1961 Code of Racketeer Influenced and Corrupt Organizations
106	Kmart document showing Mark Kenney hand-picked TBF as Counsel for equity holders.
107	Fate of Barry Gold from Gadzooks
108	US Trustee Motion notes In re: Bonus Sales on the company of Paul Traub and Barry Gold
109	Document of Johnson & Johnson of Purchase of Baby Center.com from eToys prepetition signed by one "Nancy A. Valente"
110	Document of formation of the Barry Gold/Paul Traub company of Asset Disposition Advisors ("ADA") registered agent of "Nancy A Valente".
111	Paul Traub's testimony an Hutchins, Wheeler involvement in forming ADA
112	Paul Traub's Testimony in his deposition of Feb 9, 2005 where he states that he and Barry Gold were engaged by Fleet
113	Documentation listing of Claims acquired by Madison Liquidity in eToys case
114	IPO lawsuit of eToys vs. Goldman Sachs, Fleet, Credit Suisse and Merrill Lynch
115	Paul Traub affidavit, and other affidavits, regarding MNAT vacating its role as debtors counsel in prosecuting the IPO litigation against Goldman Sachs and authorizing TBF to handle the case on behalf of the eToys Estate
116	Rule(s) and Code(s) on the unlawful retaliation by a counsel in Bankruptcy cases for personal gain or vendetta

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United States District Judge

Dated: \_\_\_\_\_, 200\_\_\_\_